

Anne M. Talcott, OSB #965325
Email: atalcott@schwabe.com
SCHWABE, WILLIAMSON & WYATT, P.C.
1211 SW 5th Ave., Suite 1900
Portland, OR 97204
Telephone: 503.222.9981
Facsimile: 503.796.2900

Of Attorneys for Defendant

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON,
PORTLAND DIVISION

ELIXIR THERAPEUTICS, LLC, a
Wyoming limited liability company,

Plaintiff,

vs.

**GLOBAL INNOVATIVE CONCEPTS,
LLC**, an Alabama limited liability company,

Defendant,

Case No. 3:20-cv-2055

**DEFENDANT GLOBAL INNOVATIVE
CONCEPTS, LLC'S NOTICE OF
REMOVAL**

Defendant Global Innovative Concepts, LLC ("Global"), pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, hereby gives notice of the removal of this action from the Circuit Court for the County of Multnomah, Oregon to the United States District Court for the District of Oregon, Portland Division. This Court has subject-matter jurisdiction over this action under 28 U.S.C. §

1332(a) because there is complete diversity among the parties and there is more than \$75,000 in controversy. As grounds for this removal, Global states as follows:

INTRODUCTION

1. Plaintiff Elixir Therapeutics, LLC (“Elixir”), filed this action on August 24, 2020 by filing a Complaint in the Multnomah County Circuit Court. The state court action is Case No. 20-CV-29344. In accordance with 28 U.S.C. § 1446(a), copies of all pleadings, processes, and orders in the state-court action are attached as Exhibit 1.

2. Global was first served with a copy of the Complaint and Summons on October 28, 2020. This Notice of Removal is thus timely because the thirty (30) day limitation imposed by 28 U.S.C. § 1446(b)(1) for filing this Notice of Removal has not yet expired and because this action is removed not more than one (1) year after commencement of the action as required by 28 U.S.C. § 1446(c)(1).

3. In its Complaint, Elixir seeks “a judgment declaring that there is no written agreement between the Global and Elixir, and declaring that Elixir does not owe any compensation to Global.”¹ As reflected in the demand letter sent to Global on August 19, 2020, Global disputes that there was no agreement between the parties and contends that it is owed at least \$1,561,294, plus interest and attorney’s fees.² Elixir refused to pay and the principal amount plus interest, attorneys’ fees, and other costs and damages remain outstanding.³

GROUND FOR REMOVAL

4. This action may be removed under 28 U.S.C. § 1441(a) because this Court has original jurisdiction over this action under 28 U.S.C. §§ 1332(a)(1) and 1332(a)(2). There is

¹ See Complaint (Ex. 1) at p. 2.

² See Declaration of John Mark Goodman Letter (attached as Exhibit 2) at Ex. A.

³ Id. at ¶ 3.

complete diversity of citizenship between the parties, and the amount in controversy exceeds \$75,000, exclusive of interest and costs.

A. There is Complete Diversity of Citizenship Between the Parties.

5. This action involves “citizens of different States and in which citizens or subjects of a foreign state are additional parties.” 28 U.S.C. § 1332(a)(3).

6. At the time Elixir commenced this civil action, and at all times since, Elixir was and is a Wyoming limited liability company, with its principal place of business located at 1515 SW Fifth Avenue, Suite 600, Portland, Oregon 97201.⁴ Accordingly, Elixir is a citizen of Wyoming and Oregon for the purposes of diversity jurisdiction. *See* 28 U.S.C. § 1332(c) (for the purposes of determining citizenship, “a corporation shall be deemed to be a citizen of every State and foreign state by which it has been incorporated and of the State or foreign state where it has its principal place of business”).

7. At the time Plaintiff commenced this civil action, and at all times since, Global was and is an Alabama limited liability company with its principal place of business in Alabama. Accordingly, Global is a citizen of Alabama for the purposes of diversity jurisdiction.⁵

8. Accordingly, this action involves “citizens of different States and in which citizens or subjects of a foreign state are additional parties.” 28 U.S.C. § 1332(a)(3). Plaintiff is a citizen of Wyoming and Oregon, and the defendant is a citizen of Alabama.

B. The Amount-In-Controversy Requirement is Satisfied.

9. The amount-in-controversy requirement for diversity jurisdiction is satisfied in this case because, “by the preponderance of the evidence,” it is clear “that the amount in controversy exceeds [\$75,000].” 28 U.S.C. § 1446(c)(2)(B); *see also id.* § 1332(a).

⁴ *See* Exhibit 1 to Complaint (Ex. 1) at p. 2.

⁵ *Id.*

10. In its Complaint, Elixir seeks “a judgment declaring that there is no written agreement between the Global and Elixir, and declaring that Elixir does not owe any compensation to Global.”⁶ Global disputes that there was no agreement between the parties and contends that it is owed at least \$1,561,294.⁷ There is no evidence showing to a legal certainty that the amount in controversy has not been met. *See St. Paul Mercury Indem. Co. v. Red Cab Co.*, 303 U.S. 283, 289, 58 S. Ct. 586, 590 (1938) (“It must appear to a legal certainty that the claim is really for less than the jurisdictional amount to justify dismissal.”).

C. The Other Prerequisites for Removal Have Been Satisfied.

11. In addition to satisfying the requirements of diversity jurisdiction, Global has satisfied all other requirements for removal.

12. Removal is timely because less than 30 days have passed since service of the Complaint on Global on October 28, 2020.

13. Venue for removal is proper in this District and Division, *see* 28 U.S.C. § 1441(a)(2), because this District and Division embrace the Multnomah County Circuit Court, the forum in which the removed action was pending, *see* 28 U.S.C. § 117.

14. In accordance with 28 U.S.C. § 1446(d), Global will promptly provide written notice of the filing of this Notice of Removal to the Plaintiff and shall file a copy of this Notice along with a Notice of Filing Notice of Removal with the Clerk of the Circuit Court of Multnomah County, Oregon, where this action is currently pending.

15. In accordance with the foregoing, Global gives notice that the matter bearing Case No. 20-CV-29344 in the Circuit Court of Multnomah County, Oregon is removed to the United

⁶ *See* Complaint (Ex. 1) at p. 2.

⁷ *See* Ex. 2.

States District Court for the District of Oregon, and requests that this Court retain jurisdiction for all further proceedings in this matter.

Dated: November 25, 2020.

SCHWABE, WILLIAMSON & WYATT, P.C.

By: s/ Anne M. Talcott
Anne M. Talcott, OSB #965325
Email: atalcott@schwabe.com
Telephone: 503.222.9981
Facsimile: 503.796.2900

John Mark Goodman (*pro hac vice* to be filed)
BRADLEY ARANT BOULT CUMMINGS
LLP
One Federal Place
1819 Fifth Avenue North
Birmingham, AL 35203-2104
(205) 521-8231
(205) 521-8800 - facsimile
jmgoodman@bradley.com

CERTIFICATE OF SERVICE

I hereby certify on this 25th day of November, 2020, I caused to be served a true and correct copy of the foregoing via the methods indicated on the following party:

Charles R. Markley
Williams Kastner
1515 SW Fifth Avenue, Suite 600
Portland, OR 97201-5449
Telephone: (503) 228-7967
cmarkley@williamskastner.com

BY:

- ☐ Hand Delivery
- ☐ Facsimile
- ☒ U.S. Mail
- ☐ Overnight Courier
- ☒ Courtesy Email
- ☐ Electronic Service
- ☐ Other:

s/ Anne M. Talcott

Anne M. Talcott, OSB #965325